

REMARKS/ARGUMENTS

This Amendment is submitted in reply to the First Office Action dated June 23, 2009. Applicant respectfully requests reconsideration and further examination of the patent application pursuant to 37 C.F.R. § 1.111.

Summary of the Examiner's objections and rejections

Claims 27-52 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 27, 28, 31-35, 37-40, 44, 47-51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams (US 6,144,669) in view of Nakatsugawa (US 6,243,830B1).

Claims 29, 30, 45, and 46 under 35 U.S.C. § 103(a) as being unpatentable over Williams (US 6,144,669) in view of Nakatsugawa (US 6,243,830B1) in further view of Sakaguchi (US 2003/0212855A1).

Claims 36, 41-43, and 52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams (US 6,144,669) in view of Nakatsugawa (US 6,243,830B1) in further view of Leung (US 2002/0132613A1).

Summary of Amendments

Applicant has canceled claim 41 (without prejudice) and amended claims 27-40 and 42-52. The support for the amendments to independent claims 37 and 38 can be found in independent claim 1. In addition, claims 27-40 and 42-52 were amended to replace the term "characterized" with the term "comprising" and to correct several grammatical errors. No new subject matter has been added.

Moreover, Applicant has amended the specification to correct a grammatical error on page 10, line 31. No new subject matter has been added.

Information Disclosure Statement

Applicant has submitted herewith an Information Disclosure Statement that recites the non-patent literature documents which were not considered in the Information Disclosure Statement filed on August 18, 2006.

Remarks regarding the §101 rejections

Claim 27 stands rejected under 35 U.S.C. § 101 because the recited method is not tied to a particular machine or does not transform underlying subject matter (such as an article or material) to a different state or thing. Applicant respectfully traverses this rejection because the claimed state memory (underlying subject matter) is transformed during the dividing step into at least two memory portions where each memory portion is assigned to store state information associated with a specific message class. Accordingly, Applicant respectfully requests the removal of this rejection to independent claim 27 and the corresponding dependent claims 28-36.

Claims 37 and 38 stand rejected under 35 U.S.C. § 101 because the Applicant attempted to claim non-statutory subject matter (i.e. software) and does not claim a proper computer readable medium. In rejecting claims 37 and 38, the Examiner highlighted the following terms "unit for managing", "communications unit", "state memory managing unit", "means for defining", and "means for dividing" (see pages 3-4 in the Office Action). Thus, the Examiner appears to contend that claims which are drafted in accordance with §112, ¶6 are considered unpatentable software. Applicant respectfully traverses this rejection. In particular, Applicant submits that it would be incongruous to the patent statute, as a whole, to state that claims can be drafted using the statutorily-authorized form under §112, ¶6 do not qualify as statutory subject matter under §101. The foregoing is also supported by the Federal Circuit's opinion in *Biomedino*, in which the court stated that:

Once a court concludes that a claim limitation is a means-plus-function limitation, two steps of claim construction remain: 1) the court must first identify the function of the limitation; and 2) the court must then look to the specification and identify the corresponding structure for that function. If there is no structure in the specification corresponding to the

means-plus function limitation in the claims, the claim will be found invalid as indefinite.

While the specification must contain structure linked to claimed means, this is not a high bar: "[a]ll one needs to do in order to obtain the benefit of [§ 112, ¶ 6] is to recite *some* structure corresponding to the means in the specification, as the statute states, so that one can readily ascertain what the claim means and comply with the particularity requirement of [§ 112,] ¶ 2." Additionally, interpretation of what is disclosed in the specification must be made in light of the knowledge of one skilled in the art. Thus, in order for a means-plus-function claim to be valid under § 112, the corresponding structure of the limitation "must be disclosed in the written description in such a manner that one skilled in the art will know and understand what structure corresponds to the means limitation. Otherwise, one does not know what the claim means." (emphasis added)

One of ordinary skill in the art would readily ascertain, from a reading of Applicants' specification, that the recited elements and means necessary to carry out the recited claim functions are clearly depicted in the figures and described with reference thereto. Accordingly, Applicant respectfully requests the removal of this rejection to independent claim 37 and 38 and the corresponding dependent claims 39-40 and 42-52.

Remarks regarding the §103(a) rejections

Applicant respectfully submits that amended independent claim 27 is not disclosed or suggested by Williams, Nakatsugawa, Sakaguchi, Leung or any combination thereof. The amended independent claim 27 is as follows:

27. A method of managing a state memory adapted for storing state information applicable in a message communication between communications units in a communications system, comprising the steps of:

-defining at least two message classes of the messages communicated between said communications units; and

-dividing said state memory into at least two memory portions, each memory portion being assigned for storing state information associated with a specific message class;

-and in that said state memory is arranged in a first communication unit and is allocated for storing state information used in message communication with a second communications unit;

-and in that said second communications unit requesting said first communications unit to allocate state memory space utilized for storing said

state information used in said message communication with said second communications unit (emphasis added).

In the Office Action, the Examiner indicated that Williams "does not specifically disclose that said state memory is arranged in a first communication unit and is allocated for storing state information used in message communication with a second communications unit; and in that said second communications unit requesting said first communications unit to allocate state memory space utilized for storing said state information used in said message communication with said second communications unit" (see pages 5 and 6 in the Office Action). In an attempt to correct this defect the Examiner cited Nakatsugawa and stated the following:

Nakatsugawa shows and discloses a state information managing method which is able to manage easily state information of respective communication units, wherein said state information is arranged in a first communication unit and is allocated for storing state information used in message communication with a second communications unit (abstract, column 2 lines 20-34); and in that said second communications unit requesting said first communications unit to allocate state memory space utilized for storing said state information used in said message communication with said second communications unit (abstract, column 2 lines 20-34).

(see page 6 in the Office Action)

Applicant respectfully submits that Nakatsugawa fails to disclose or suggest the claimed feature where a first communication unit has the state memory for storing state information used in message communication with a second communications unit and where the second communications unit requests the first communication unit to allocate state memory space utilized for storing said state information used in the message communication with the second communications unit (emphasis added). Instead, Nakatsugawa discloses the following:

In a communication system wherein a collecting communication unit of a plurality of communication units collects state information from report communication units to manage the state information, each of the report communication units comprises a state information memory for storing the state

information of own communication unit, a state monitoring portion for monitoring the state information of own communication unit and then rewriting the stored state information into new state information after change if the state information has been changed, and a transmitting/receiving portion for adding the stored state information and own address to the recovery command and then transmitting the recovery command when respective report communication units receive the recovery command for recovering the state information, whereby the collecting communication unit can receive the recovery command to which changed state information and their own addresses of respective report communication units are added collectively.

(see abstract)(see also column 2 lines 20-34).

In making the pending rejection, the Examiner appears to have equated the claimed first communications unit with Nakatsugawa's collecting communication unit and the claimed second communications unit with Nakatsugawa's report communication unit. However, Nakatsugawa's report communication unit simply reports its internal state to the collecting communication unit. There is no disclosure about Nakatsugawa's report communication unit requesting the collecting communication unit to allocate state memory space let alone where the collecting communication unit then must use the requested allocated state memory space for storing state information used in the message communication with the report communications unit. Plus, Applicant submits there is no need for Nakatsugawa's report communication unit to request the collecting communication unit to allocate state memory space so that the collecting communication unit can store the report communication unit's internal state information. The Examiner is reminded that even with a 103 rejection the cited prior art still needs to teach or suggest all of the claimed limitations (see MPEP 2143). This requirement has not been satisfied with respect to the proposed combination of Williams and Nakatsugawa. Sakaguchi and Leung do not cure these defects. In view of at least the foregoing, Applicant submits that the aforementioned substantial differences between the amended independent claim 27 and the cited art are indicative of the patentability of the amended independent claim 27 and the corresponding dependent claims 28-36.

Furthermore, Applicant respectfully submits that the amended independent claims 37 and 38 are patentable in view of Williams, Nakatsugawa, Sakaguchi, Leung or

any combination thereof. The independent claims 37 and 38 recite the same or similar distinguishing limitations that have been discussed above with respect to independent claim 27. As such, the aforementioned remarks regarding the patentability of independent claim 27 apply as well to independent claims 37 and 38. Accordingly, Applicant respectfully requests the allowance of independent claims 37 and 38 and the corresponding dependent claims 39-40 and 42-52.

CONCLUSION

In view of the foregoing remarks, Applicant believes all of the claims currently pending in the application to be in a condition for allowance. Therefore, Applicant respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for pending claims 27-40 and 42-52.

The Commissioner is hereby authorized to charge any fees for this paper, the 1-month extension of time, and the co-filed information disclosure statement to Deposit Account No. 50-1379.

Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

/William J. Tucker, Reg. No. 41,356/

By William J. Tucker
Registration No. 41,356

Date: October 12, 2009

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-2608 or (214) 324-7280
william.tucker@ericsson.com